



**OFFICE OF PUBLIC INSTRUCTION**

**PO BOX 202501  
HELENA MT 59620-2501  
(406) 444-3680**

**Nancy Keenan  
Superintendent**

**COOPERATIVE FOOD PURCHASE BID**

**INVITATION FOR BID**

**Bids will be received and publicly opened at 2:00 p.m. on:**

**Tuesday, July 18, 2000**

**OPI CONFERENCE ROOM – 1300 11<sup>TH</sup> AVENUE**

**HELENA, MT.**

<b>MARK FACE OF BID ENVELOPE UNDER YOUR RETURN ADDRESS WITH THE FOLLOWING:</b> “SEALED BID” (Bid Identity) (Opening Date)	<b>RETURN YOUR BID TO:</b> Office of Public Instruction School Food Services 1300 11 th Avenue P.O. Box 202501 Helena, MT. 59620-2501
<b>PLEASE COMPLETE</b>	
Delivery Dates:	Payment Terms: Net 30 Days
Company Name/Address:	Phone: (    )
	Fax: (    )
Bidder Name: (please print)	Federal I.D. No.:
Signature of Bidder:	
<b>IMPORTANT SEE REVERSE SIDE FOR TERMS &amp; CONDITIONS</b>	

## Standard Terms and Conditions

**By submitting a bid or proposal, or acceptance of a contract, the vendor agrees to the following binding provisions:**

---

**AUTHORITY:** The following bid/request for proposal or contract is issued in accordance with Title 18, Montana Code Annotated and the Administrative Rules of Montana, Title 2, Chapter 5.

**CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS:** Any business entity, domestic or foreign, intending to transact business in Montana must apply for authority to do so with the Montana Secretary of State. Foreign business entities are obligated to determine whether they are transacting business in Montana, in accordance with §§ 35-1-1026 and 35-8-1001, MCA, and if so, must apply for and receive a certificate of authority and continue to be in good standing with the Secretary of State for the duration of this contract. Violation of these requirements may void this contract. Proof of authority is required. Questions or registration may be accomplished by contacting the Secretary of State at (406) 444-3665 or by e-mail at [sos@state.mt.us](mailto:sos@state.mt.us).

**SHIPPING:** Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

**TAX EXEMPTION:** The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

**VENUE:** This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Ref:18-1-401, MCA)

**NON-DISCRIMINATION:** The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

The contractor must comply with the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. All hiring necessary as a result of a contract must be on the basis of merit and qualifications; there may not be discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing under a subsequent contract.

**HOLD HARMLESS/INDEMNIFICATION:** The bidder, offeror, or contractor agrees to indemnify the state, its officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed, goods or rights to intellectual property provided or omissions of services or in any way resulting from the acts or omission of the contractor and/or its agents, employees, subcontractors or its representatives under a subsequent contract, all to the extent of the contractor's negligence.

**ACCESS AND RETENTION OF RECORDS:** The contractor agrees to provide the Office of Public Instruction, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Ref: 18-1-118, MCA) The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

**INTELLECTUAL PROPERTY:** All patent and other legal rights in or to inventions arising out of activities funded in whole or in part by this contract must be available to the public for royalty-free and nonexclusive licensing. The contractor shall notify the Office of Public Instruction in writing of any invention conceived or reduced to practice in the course of performance of the contract.

The Office of Public Instruction and the public shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under the contract.

**UNAVAILABILITY OF FUNDING:** The Office of Public Instruction, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (Ref: Section 18-4-313 (3), MCA)

**PREPARATION OF BID:** Bids must be written in ink and/or typewritten on bid forms furnished herewith. Erasures and alterations must be initialed by the vendor in ink. Verbal bids will not be accepted. Facsimile bids sent directly to the Office of Public Instruction will not be accepted; however, facsimile bids sent to a 3<sup>rd</sup> party and then delivered to the Office of Public Instruction in a properly addressed, sealed envelope will be accepted. Facsimile bids must be followed, within 10 days, by a hard copy of the bid including the required authorized signature.

**UNIT PRICE:** Unless otherwise specified, the unit price for each line items must be provided in the appropriate space within the bid document: This shall be known as the "base" bid. The unit price for multiple items must be extended to reflect the total price for the quantity of items requested. Unless otherwise specified, the unit price shall prevail.

**WARRANTIES:** The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

**ACCEPTANCE/REJECTION OF BIDS OR PROPOSALS:** The Office of Public Instruction reserves the right to accept or reject any or all bids or proposals, wholly or in part, and to make awards in any manner deemed in the best interest of the Recipient Agencies. Bids and proposals will be firm for thirty days, unless stated otherwise.

**PROTEST PROCEDURE:** Bidders and offerors may protest an award. The protest must be in writing and state in detail all of the protestor's objections. If the protest involves the solicitation or award of a contract, the protestor must follow the provisions of Section 18-4-242, MCA. If the protest involves a small purchase or limited solicitation as defined in ARM 2.5.603, the protestor may request an administrative review of the procurement file by the agency issuing or awarding the contract. The State is under no obligation to delay, halt, or modify the procurement process due to a protest.

**MONTANA PREFERENCES:** Preferences are not applied to this invitation for bid as federal funds are involved.

OVER

**FAILURE TO HONOR BID/PROPOSAL:** If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

**CONFORMANCE WITH CONTRACT:** No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of this contract shall be granted without prior written consent of the Office of Public Instruction. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

**REFERENCE TO CONTRACT:** The contract (Purchase Order) number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

**PAYMENT TERM:** All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted, the recipient agencies are allowed 30 days to pay such invoices.

**CONTRACT TERMINATION:** Unless otherwise stated, the Office of Public Instruction may, by written notice to the contractor, terminate this contract in whole or in part at any time the contractor fails to perform this contract.

**ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** The contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the department. (See 18-4-141, MCA)

**SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.

**DEBARMENT:** The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the state. See attached form.

REVISED 06/00

# **SPECIAL TERMS AND CONDITIONS FOR THE SCHOOL FOOD SERVICE INVITATION FOR BID**

The Office of Public Instruction (OPI), School Food Services, P. O. Box 202501, Helena, Montana 59620-2501, is soliciting bids on the attached food and nonfood items.

Special Terms and Conditions of the bid are as follows:

1. Bids are to be based on a cost per unit. The bid will be awarded on the total cost of all food and nonfood items on an "all or none" basis. Bidders will be notified of the bid outcome by letter dated no later than July 24, 2000. When the bid has been awarded to a company, the "Conditions" of this "Invitation for Bid" along with the company's signed bid, will be a binding contract between that company and the Office of Public Instruction, School Food Services.
2. Bids are to be received by the OPI/School Food Services on or before the bid opening at 2 p.m., Tuesday, July 18, 2000. Bid opening will be in the OPI conference room, 1300 11th Avenue, Helena, Montana.
3. The successful bidder must provide Contract Performance Security based upon 10 percent (10%) of the bid total. The contract performance security must be provided by the successful bidder, in one of the following forms, within ten (10) working days from Notice of Award. ONLY THE FOLLOWING TYPES OF SECURITY ARE ACCEPTABLE AND MUST BE IN ORIGINAL FORM (FACSIMILE OR PHOTOCOPIES ARE NOT ACCEPTABLE):
  - a) a sufficient performance bond with a licensed surety company as surety; or
  - b) lawful money of the United States; or
  - c) a cashier's check, bank money order, bank draft, certificate of deposit, or money market certificate, drawn or issued by a federally or state-chartered bank or savings and loan association that is insured by or for which insurance is administered by the FDIC or that is drawn and issued by a credit union insured by the national credit union insurance fund. (Personal or business checks are not acceptable.)

Ref: MCA Title 18, Chapter 4, Part 3, Title 30, Chapter 5, and Section 2, Chapter 5, Sub-Chapter 5, ARM.

4. The successful bidder will deliver food and nonfood items between the hours of 7 a.m. and 5 p.m. on school days. All recipient agencies will receive at least a 24-hour notice before delivery. Delivery between 11 a.m. through 12:30 p.m. should be avoided unless previous arrangements have been made with the agency receiving the order.

The first delivery is to begin September 5, 2000, and be completed by October 6, 2000. The second delivery is to begin November 6, 2000, and be completed by December 8, 2000. Schools will be instructed to inform OPI/School Food Services of any non-delivery by the deadline dates.

Orders totaling \$200 or less may be subject to a one-time delivery date to be established by the winning bidder and recipient agency.

5. Only products included on the bid sheet may be bid. These products have been evaluated and found to be acceptable. All processed fruits, vegetables, and condiments shall be of the 1999 or 2000 pack year. Any other product bid will be rejected.

**OVER**

6. The successful bidder is to provide the Office of Public Instruction, School Food Services, one (1) case each of twelve (12) food and non-food items bid, selected at random by OPI, from the full lot for quality assurances. These cases are not included in the total number of units bid. The cost of these items is to be borne by the successful bidder. Delivery will be made on or before September 22, 2000 to: DPHHS Commodity Warehouse, 1400 Carter Drive, Helena, Montana 59620, attn: John Gillispee (447-4261) or Gordon Davidson (447-4262). **CALL BEFORE DELIVERY!**
7. “Buy American” requirement: The National School Lunch and School Breakfast Program regulations require that whenever possible, School Food Authorities shall only purchase food products that are produced in the United States.

## DEPARTMENT OF AGRICULTURE

---

### *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions*

---

*This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.*

***(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON  
BACK)***

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.*
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.*

---

---

*=*  
*Organization Name* *PR/Award Number or Project Name*

---

---

*=*  
*Name and Title of Authorized Representative*

---

---

Signature

Date

Instructions on back of page.

**INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representative of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded" as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.



9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.